

UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION at LEXINGTON

JOSEPH MARK BOURNE,)	
)	
Plaintiff,)	Civil Action No. 5: 09-43-JMH
)	
vs.)	
)	
BARRY HARMON, ET AL.,)	MEMORANDUM OPINION
)	AND ORDER
Defendant.)	

**** **** ****

Plaintiff Joseph Mark Bourne ("Bourne"), a prisoner incarcerated at the Kentucky State Reformatory in LaGrange, Kentucky, filed a *pro se* 42 U.S.C. § 1983 complaint [R. 2] on February 6, 2009. The Court granted his motion to proceed *in forma pauperis* by separate Order.

In his Complaint, the Plaintiff alleged that beginning in March 2004 and continuing to the present, he was "abused both mentally and physically" through the use of "electronic devices" while incarcerated at the Boyle County Detention Center and via remote control while incarcerated at the Kentucky State Reformatory. Plaintiff further alleged that in April 2005 a guard used an excessive amount of pepper spray to retaliate against him for a comment he made to a female officer. [R. 2]

On February 17, 2009, the Court entered a Show Cause Order directing the Plaintiff to show cause why this matter should not be dismissed as barred by the applicable statute of limitations under *Collard v. Kentucky Board of Nursing*, 896 F.2d 179, 182 (6th Cir.

1990). [R. 4] The Order advised the Plaintiff that the Complaint would be dismissed if he failed to file a response or filed a response that does not provide legally-sufficient grounds for permitting the case to proceed.

More than 30 days have passed since the entry of the Show Cause Order, and Plaintiff has not filed any response thereto. The time allowed for compliance with the Show Cause Order has expired without the appropriate actions being taken or a motion for extension of time to do so having been filed.

Accordingly, **IT IS ORDERED** that:

1. Plaintiff's Complaint [R. 2] is **DISMISSED WITH PREJUDICE**.
2. Plaintiff's motion seeking the appointment of counsel [R. 5] is **DENIED AS MOOT**.
3. This is a **FINAL AND APPEALABLE ORDER**.
4. The Court certifies that any appeal would not be taken in good faith. 28 U.S.C. § 1915(a)(3); *McGore v. Wigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997).

This the 25th day of March, 2009.



Signed By:

Joseph M. Hood *JMH*

Senior U.S. District Judge